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FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR: 488

DATE SUBMITTED: June 4, 2009

DATE ACTIVATED: June 22, 2009

EXPIRATION OF SOL: July 29, 2010 (earliest)  
July 30, 2014 (latest)<sup>1</sup>

SOURCE:

Susan B. Anthony List, Inc. Candidate Fund

RESPONDENTS:

Susan B. Anthony List, Inc. Candidate Fund  
Frank Cannon, in his official capacity as treasurer

RELEVANT STATUTES:

2 U.S.C. § 434(b)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. BACKGROUND

Susan B. Anthony List, Inc. Candidate Fund ("the PAC") is a federal separate segregated fund of Susan B. Anthony List, Inc., an incorporated non-profit organization. During the relevant period (2005-2008), the PAC filed monthly disclosure reports with the Commission during election years and semi-annual reports during non-election years.

\_\_\_\_\_ the PAC disclosed that an internal audit of its 2006 and 2008 election cycle financial records showed that it overstated or understated its year-end cash

<sup>1</sup> The earliest statute of limitations date is based on the July 29, 2005 filing date of the disclosure report that includes the cash balance at issue in this matter. The latest date is based on the July 30, 2009 filing date of the disclosure report in which the cash discrepancies were corrected.

balances for each calendar year from 2005 to 2008.<sup>2</sup> The PAC uncovered the accounting discrepancies as a result of a 2007 management change in its connected organization, Susan B. Anthony List, Inc. The PAC then hired an independent accounting firm, Lane & Company, to conduct a comprehensive internal audit of its financial accounts.

The cash balance discrepancies resulted from overstated or understated receipts and disbursements, as set forth in the chart below.

**Susan B. Anthony List, Inc. Candidate Fund  
Reconciliation Summary of Calendar Years 2005 - 2008**

	<u>FEC</u>	<u>Quickbooks</u>	<u>Merrill Lynch</u>	<u>Annual Difference</u>	<u>Cumulative Difference</u>	<u>Errors By Category</u>
1/1/2005 Balances	161,310.68	34,366.35	151.39		(126,762.94)	
<b>2005:</b>						
Cash Receipts	17,902.00	18,703.29	2.10	803.39		803.39
Cash Disbursements	(38,209.18)	(41,271.48)	(153.00)	(5,215.30)		5,215.30
12/31/2005 Balances	143,003.50	11,828.16	0.49	(4,411.91)		
<b>2006:</b>						
Cash Receipts	275,077.48	290,225.31		15,147.83		15,147.83
Cash Disbursements	(328,137.00)	(290,235.49)	(0.49)	37,901.02		37,901.02
12/31/2006 Balances	89,943.98	11,817.98	(0.00)	53,048.85		
<b>2007:</b>						
Cash Receipts	50,099.00	46,087.27		(4,011.73)		4,011.73
Cash Disbursements	(39,548.29)	(52,059.77)		(12,511.48)		12,511.48
12/31/2007 Balances	100,494.69	5,845.48		(18,523.21)		
<b>2008:</b>						
Cash Receipts	640,481.60	633,616.13		(6,865.47)		6,865.47
Cash Disbursements	(608,924.84)	(608,830.64)		(5.70)		5.70
12/31/2008 Balances	132,051.35	30,530.97		(6,871.17)		
Cumulative Differences for 2005 - 2008					25,242.56	
Adjustment Needed to FEC Cash Report to Reflect Correct 12/31/08 Balance					(101,520.38)	
Total Errors by Category, Gross						82,481.92

<sup>2</sup> The PAC acknowledges that the misstated cash balances may date back to 2002, but the submission did not include detailed information for cash misstatements prior to January 1, 2005. Based on the applicable statute of limitations, we do not address possible violations stemming from misstated cash balances before the 2006 election cycle.

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1 As shown in the chart above, the PAC overstated its 2005 beginning cash on hand by  
2 \$126,762.94 in its 2005 Mid-Year Report. Additionally, the PAC's 2005 annual receipts were  
3 understated by \$803.39 and its disbursements by \$5,215.30. The 2006 annual receipts were  
4 understated by \$15,147.83, and the disbursements were overstated by \$37,901.02.<sup>3</sup> The 2007  
5 annual receipts were overstated by \$4,011.73, and the disbursements were understated by  
6 \$12,511.48. Finally, the PAC's 2008 annual receipts were overstated by \$6,865.47, and its  
7 disbursements were understated by \$5.70. The PAC determined that the financial misstatements  
8 resulted in discrepancies totaling \$82,461.92 during the 2005-2008 period.

9 The internal audit showed that the misstated receipts and disbursements resulted from  
10 improper handling of credit card transactions, inconsistent internal accounting methods,  
11 improper treatment of coordinated expenditures, and poor recordkeeping.<sup>4</sup> Specifically, the PAC  
12 disclosed to the Commission the gross amounts of credit card contributions, while the PAC's  
13 internal accounts reflected net amounts (less credit card companies' processing fees). Also, the  
14 vendor(s) that processed the credit card contributions forwarded them as a batch so that  
15 individual donations could not easily be matched to their donors. In addition, the PAC's  
16 accounting vendor kept the PAC's books in a different accounting system than was used for the  
17 disclosure reports (accrual vs. cash basis) and failed to reconcile the figures in preparing the  
18 reports. The divergent accounting conventions caused the PAC to misreport information.  
19 Finally, the PAC reported both the value of in-kind contributions from coordinated fundraising  
20 expenses and the actual expenses (printing, mailing, etc.) as cash disbursements.

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<sup>3</sup> The PAC asserts that the \$15,147.83 discrepancy may have been due to duplicative receipt entries by the Commission's reporting software.

<sup>4</sup> The internal audit determined that the discrepancies did not involve misappropriated funds.

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1           The PAC represents that it took appropriate corrective measures and improved its internal  
2 controls promptly after discovering the discrepancies. For example, prior to filing the June 2009  
3 submission (but after completing the internal audit), the PAC amended all of its 2008 monthly  
4 disclosure reports and sought the assistance of the Commission's Reports Analysis Division  
5 ("RAD") to enhance their compliance efforts. Based on RAD's advice and the internal audit, the  
6 PAC determined that a comprehensive cash adjustment would reconcile the cash balance  
7 discrepancies, in lieu of amending additional individual reports. The PAC has since disclosed a  
8 \$99,484 comprehensive cash adjustment in its 2009 Mid-Year Report that was filed on July 30,  
9 2009.<sup>5</sup> The PAC asserts it has improved its internal controls by using a new credit card  
10 processor and by hiring a full-time bookkeeper to routinely reconcile the PAC's disclosure  
11 reports with its bank statements and accounting records.

<sup>5</sup> The adjustment amount reflects a net cash balance discrepancy for the 2005-2008 period based on the PAC's conclusion (as shown in the prior chart) that throughout the period it understated receipts by approximately \$5,000, and overstated disbursements by approximately \$20,000, reducing the beginning \$126,762.94 total cash balance overstatement to \$101,520.38. That amount was further reduced by an additional \$2,035.70 to correct residual errors through the July 30, 2009 filing date.

**II. DISCUSSION**

Each treasurer of a political committee is required to file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall accurately disclose the committee's cash on hand, the total amount of receipts for the reporting period and for the calendar year, and the total amount of disbursements for the reporting period and for the calendar year. 2 U.S.C. § 434(b)(1), (2), and (4).

The submission shows that the PAC misstated its financial activity by overstating its 2005 beginning cash on hand by \$126,762.94, and overstating or understating a total of \$82,461.92 in receipts and disbursements on its 2006 and 2008 election cycle disclosure reports. Accordingly, we recommend that the Commission find reason to believe Susan B. Anthony List, Inc. Candidate Fund and Frank Cannon, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(1), (2), and (4).

**III. PROPOSED CONCILIATION AND CIVIL PENALTY**

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**IV. RECOMMENDATIONS**

1. Open a MUR.
2. Find reason to believe that Susan B. Anthony List, Inc. Candidate Fund and Frank Cannon, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(1), (2), and (4).
3. Approve the attached Factual and Legal Analysis.
- 4.

5. \_\_\_\_\_

6. Approve the appropriate letter.

Thomasenia P. Duncan  
General Counsel

10/19/09  
Date

BY:

Stephen Gura  
Stephen Gura  
Deputy Associate General Counsel

Mark Shonkwiler  
Mark Shonkwiler  
Assistant General Counsel

Kamau Philbert  
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Attorney

Attachments:

1. Factual and Legal Analysis